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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.						
09/896,235	06/29/2001	Martin Hurich	10191/1839	9413						
26646	7590	03/15/2004	<table border="1"><tr><td>EXAMINER</td></tr><tr><td>PORTKA, GARY J</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>2188</td><td></td></tr></table>		EXAMINER	PORTKA, GARY J	ART UNIT	PAPER NUMBER	2188	
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DATE MAILED: 03/15/2004										

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/896,235	HURICH, MARTIN
	<b>Examiner</b>	<b>Art Unit</b>
	Gary J Portka	2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 June 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

1. Claims 1-4 are presented for examination.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on June 29, 2001 (paper no. 4) was considered by the examiner, to the extent that their contents were described in the present specification.

### ***Claim Objections***

4. Claims 1-2 and 4 are objected to because of the following informalities: Each of these claims recites "release pattern". This has been described at page 2 of the specification as "beginning and end markers". However, the term "release pattern" denotes two differences, the first that somehow the item provides, allows, or controls some type of "release"; such limitation was not explained (except perhaps in the non-translated German patent), and appears to be inaccurate. The second is that a marker is not necessarily a pattern, unless a pattern is considered the presence or absence of a mark. Hereinbelow, "release pattern" will be interpreted as a beginning marker, an ending marker, or both, unless evidence or clarification is provided to show why an artisan would view it otherwise. Appropriate correction or clarification is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 4 recite that the second subareas "enclose" the first subareas. Although it appears this is intended to signify that a second subarea is before (relative to address), and one is after, a first subarea, the limitation of "enclose" might occur only by virtue of how the address space was depicted in the drawing. For example, if the addresses were arranged in a table with a first subarea at an edge (i.e., last column), then even though second subareas might be before and after the first, it is not apparent whether they "enclose" it. Alternatively, if the limitation is intended to signify that the second subareas and first subareas are physical areas on a memory device, the term "enclose" should be interpreted as that the second subareas completely surround the first on all sides, but such a description has not been supplied. Because the desired limitation intended to be covered by the claim language is indefinite and the metes and bounds of the claim cannot be determined, claims 1 and 4, and 2 and 3 which incorporate the limitations of claim 1, are rejected.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Sassa, U.S. Patent 6,144,607.

9. As to claims 1 and 4, Sassa discloses the invention recited as well as can be understood (see claim objections and paragraph 112 rejections above), with method and controller for writing/erasing a non-volatile memory (22, Fig. 2, Figs. 3A and 3B), writing a release pattern (end flag) after error-free writing, and writing an invalidity pattern (setting erase flag to erase state) prior to erase; the erase flags may be considered to enclose the end flags to the extent recited since through the plurality of pages shown in Fig. 3B and 3C, the flags of for example the first and last pages may be said to enclose any flags of pages in between (see Fig. 3C, col. 2 lines 4-16, col. 4 lines 59-67, and col. 5 lines 1-63).

10. As to claim 2, the patterns (flags) may be considered to not correspond to the contents of the erased modules.

11. As to claim 3, the erase flag would be read as recited since it's purpose is to note an area that is being erased (and thus cannot be read).

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J Portka whose telephone number is (703) 305-4033. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (703) 306-2903. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary J Portka  
Primary Examiner  
Art Unit 2188

March 10, 2004

